

**MEETING MINUTES
BOARD OF MASSAGE THERAPY**

February 1, 2013

These minutes were
approved by the board
on 5-1-2013

1. ROLL CALL

The meeting was called to order by Kim Adams Johnson, Chairperson, at 8:31 a.m. in the Lower Level Conference Room F, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meeting Law. The following members answered the roll call:

Board Members Present:

Kim Adams Johnson, Chairperson
Keli Hupka, Vice-Chairperson
Adele Schmidt, Secretary

Board Members Absent: Gail Lorenzen - Resigned

Others Present:

Janeen Berg, Investigator
Duane Newland, Investigator
Barb Remmers, Investigator
Dennis Scott, Investigator
Ed Vierk, Assistant Attorney General
Roger Brink, Department Legal Counsel (entered at 10:32 a.m.)
Kris Chiles, Office Administrator, Licensure Unit

A quorum was present and the meeting convened.

2. ADOPTON OF AGENDA

Schmidt requested amendments to the agenda as follows:

- Change Item 3, Approval of Minutes (December 2012), to (October and December 2012)
- Add under New Business: Path of Agenda Items

MOTION: Schmidt moved, seconded by Hupka to approve the agenda as amended. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

3. APPROVAL OF MINUTES – October 12 and December 7, 2012

Schmidt stated concerns regarding the content of the December 7, 2012 minutes as written regarding the following:

- Unfinished Business, Item 6b, Internal Trigger Point Therapy and Lymphatic Breast Care Therapy Workshop. Believes it was determined both practices are within the scope of practice of massage therapy.

MOTION: Schmidt moved, seconded by Hupka to approve the October 12, 2012 minutes as written and to defer approval of December 7, 2012 minutes to the next meeting so that Carol Ann Gray, Health Licensing Coordinator, may listen to the tape again regarding stated concerns about Item 6b on page 3 and make any necessary changes. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

4. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION - Closed Session

MOTION: Hupka moved seconded by Schmidt to enter into closed session at 8:37 a.m. to hear discussions of investigative/confidential nature, and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

8:38 a.m. – Hupka departed the meeting – conflict of interest

8:41 a.m. – Hupka returned to the meeting.

9:10 a.m. – Remmers and Berg departed the meeting.

9:20 a.m. – Scott and Newland departed the meeting.

MOTION: Hupka moved, seconded by Schmidt to return to Open Session at 9:54 a.m. A voice vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

9:54 a.m. – Meeting break.

10:15 a.m. – Meeting resumed in Open Session.

5. REVIEW AND RECOMMENDATIONS – OPEN SESSION

Applications, Reinstatements, Out-of State Training Programs

The following applications were reviewed during the meeting:

a. Initial Applications

Varley, Dennis

Recommendation: The board recommended issuance of the license with no terms/conditions.

MOTION: Hupka moved, seconded by Schmidt, to affirm the recommendation. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

Wittrock, Richard

Recommendation: The board recommended deferring further review of the application until additional information is received.

MOTION: Schmidt moved, seconded by Hupka, to affirm the recommendation. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

Thomas, Andrea

Recommendation: The board recommended issuance of the license with no terms/conditions.

MOTION: Hupka moved, seconded by Schmidt, to affirm the recommendation. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

Gillespie, Cynthia

Recommendation: The board recommended issuance of the license with no terms/conditions.

MOTION: Schmidt moved, seconded by Hupka, to affirm the recommendation. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

McKenna, Michelle

Recommendation: The board recommended deferring further review of the application until additional information is received.

MOTION: Hupka moved, seconded by Schmidt, to affirm the recommendation. A roll call vote was taken. Voting aye: Adams Johnson, Hupka, Schmidt (3). Voting nay: None (0). Motion carried.

b. Reinstatement Application

None to review

c. Out of State Training Programs

None to review.

6. UNFINISHED BUSINESS

None

10:16 a.m. – Vierk departed the meeting.

7. NEW BUSINESS

a. 2013 Legislation

Chiles indicated the 2013 Legislative Session began on January 9 and is scheduled to end on June 5, 2013. She reported regarding the following bills that have been introduced:

- **LB 54** – Change display of name tags and advertisement provisions under the Uniform Credentialing Act. Chiles indicated this is similar to the bill introduced during the 2012 legislative session. It would require wearing of name tags and require certain language in advertising. Discussion followed indicating the board concerns are the same as when the bill was originally introduced.
- **LB 132** – Adopt the Skin Cancer Prevention Act. Relates to tanning equipment and tanning services. The bill makes it unlawful for an owner/operator to allow persons under the age of 18 to receive services and requires posting of a sign identifying the dangers of tanning. Chiles indicated this bill is not directly related to massage services except that it is of interest to owners of massage establishments that also have tanning facilities.
- **LB 242** – Proposes to require any regulations that are to be promulgated as a result of statutory change must be completed within 3 years of the date of the legislation passing. If not accomplished, the Department will be required to go before the Legislative Committee. It is proposed to be a retroactive requirement. Chiles indicated at this time all massage regulations have been promulgated; however there are many professions that this bill would affect.
- **LB 314** – Creates escort services accountability and permit act. Sets out requirements for counties, cities and villages in Nebraska to issue permits to escort agencies and employers of escort agencies.

Discussion followed with Adams Johnson and Brink relating some of the history regarding communication from the board to the committee regarding previous introduction of the escort services bill and also related information for LB 315.

- **LB 315** – Proposes to redefine massage therapy and change licensure requirements.
- **LB 355** – Proposes changing the age of majority from 19 to 18 within every Nebraska statute. Chiles noted a similar bill had been introduced previously but did not pass.
- **LB 564** – Creates the Health Care Freedom of Conscience Act. Proposes to allow a Health provider to decline participating in providing services that conflict with personal beliefs.

Brink reported on some carryover bills which would provide exemptions for licensing of the following:

- Veterans
- Military and Spouses

b. Correspondence

None

c. Path of Agenda Items

Schmidt expressed concern that minutes of a meeting are not made available to the board within a timeframe that allows for review before the agenda is set for the next meeting. Discussion followed.

In response to questions, Chiles indicated members of the board or the public may request agenda items. The agenda is to be published at least ten days before the meeting, however, technically the agenda may be changed up to 24 hours prior to the meeting.

8. Updates and Reports

a. Animal Therapists Regulations

Nothing to report regarding a Public Hearing Date for the Animal Therapists regulations drafted by the Board of Veterinary Medicine. The regulations are currently in the review stages. Brink stated his belief the process is nearly completed.

b. Nebraska Chapter of AMTA

Nebraska Chapter of AMTA (American Massage Therapists Association) Newsletter deadline is February 1st, Hupka has asked for an extension.

c. Federation of State Massage Therapy Boards (FSMTB)

Adams Johnson stated during January she was appointed to the Policy Committee for the Federation of State Massage Therapy Boards (FSMTB). She is currently assisting with a redraft of By-Laws.

During February 22 and 23, 2013 she will be in Charleston, South Carolina for the Job Task Analysis Plan and the MBLEX examination plan meetings.

d. National Certification Board for Therapeutic Massage & Bodywork (NCBTMB)

No report.

e. Statistics: Examinations/Licensing/Administrative Penalties

- Examinations – Chiles circulated the report for examinations during the 2012 Calendar year. She indicated the following totals for the two national examinations:
 - NCTEMB (National Certification Board for Therapeutic Massage & Body Work): 39
 - MBLEX (Federation of State Massage Therapy Boards): 90

Applicants may take either examination for Nebraska licensure. Brief discussion was held regarding the increased number of applicants taking the MBLEX. Possible reasons include a lesser cost, quicker turnaround time for scheduling of examination, and generally a maximum ten-minute telephone on hold wait time.

The NCTEMB examination is offered as a means of obtaining a National Certification. Some applicants have indicated a one-hour telephone on hold wait time. It was pointed out that the focus of national certification is different as they have membership, classes, and re-certification issues to consider as well as original examinations.

- Jurisprudence examinations:
 - Initial license (reciprocity) purposes - 27 passed 6 fail
 - Disciplinary (probation) purposes - 8 pass 4 fail
 - Continuing Education purposes – 10 passed

Brink indicated he attended a recent meeting of the Board of Veterinary Medicine and they were impressed with the concept of using a jurisprudence examination as a condition of probation as well as being used for continued education purposes.

General discussion was held regarding licensees alleging they are not informed of changes in requirements for obtaining continuing education or other regulations until after they go into effect. Hupka indicated the Nebraska Chapter of the American Massage Therapists Association includes in every publication an update regarding licensing issues. She also indicated every licensed Nebraska massage therapist, not just members, is mailed a copy of the publication.

Chiles reported the following statistics:

- Licensing – as of January 31, 2013 there are:
Massage Therapists – 1,357
Massage Therapy Establishments – 573

An observation was made that it appears more Chiropractic offices are becoming licensed as massage establishments.

- Establishment Inspections during 2011: 127; during 2012: 169
- Administrative Penalties Assessed – No report.

f. Disciplinary and Non-Disciplinary Information – (Actions Pending/Taken & Administrative Penalties)

A listing of all actions pending/taken during the year 2012 was passed around. Chiles indicated she does send all members a copy of the order as actions are taken during the year.

g. Other

No report

9. ADJOURNMENT

There being no further business, Chairperson Adams Johnson declared the meeting adjourned at 11:48 a.m.

Respectfully submitted,

Adele Schmidt, Secretary

Next Meeting Dates:

April 12, 2013 (Friday)
June 21, 2013 (Friday)
August 2, 2013 (Friday)
October 25, 2013 (Friday)
December 4, 2013 (Wednesday)

Summarized by: Carol Ann Gray, Health Licensing Coordinator